

Application No. 09/735,434
Amendment dated April 1, 2004
Response to Office Action of October 1, 2003

Atty. Docket No. 042390.P9918
Examiner Shrader, L.J.
TC/A.U. 2124

Remarks

Applicants respectfully request reconsideration of the present U.S. Patent application as amended herein. Claims 1 has been amended. No claims have been added or canceled. Thus, claims 1-52 are pending, of which claims 1, 7, 13, 20, 24, 31, 35, 39, 44, 47, 50 are independent.

To focus examination on the allowability of the independent claims, the merits of the dependent claim rejections are not being addressed at this time.

§35 USC §112

Claim 1 stands rejected under §112 due to "determining whether" being unclear. Applicant apologizes for the clerical error. Claim 1 has been amended to delete the inadvertent "whether". Claim 1 should have simply read "determining an identifier".

§35 USC §103

Claims 1, 3-5, 7, 9-11 stand rejected as being obvious over Endo (US Patent No. 6,617,980) and Guarneri (US Patent No. 5,724,345).

Applicant traverses the rejection since both Endo and Guarneri fail to teach or suggest the recited dynamically loadable code. As discussed at the start of the specification Detailed Description:

Modern programming languages provide for dynamically loadable, or modular, program code. For example, an object-oriented programming (OOP) environment is one in which a program designer defines not only the data type of a data structure, but also the types of operations (e.g., functions/procedures) that can be applied to the data structure. The data structure for a class becomes an object including both data and functions/procedures. A "class" is a category of such objects, and in modern OOP environments, to avoid unnecessary resource

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consumption, a class can be dynamically loaded and unloaded to conserve resources.

As will be discussed below, dynamic loading can be effected over a push-type of networking environment. . . . A programming environment and/or application program can then use a custom class loader to integrate, when needed, pushed classes.

Endo is cited at col. 14 line 9 as teaching the recited (as amended) "determining an identifier for dynamically loadable code." The cited line of Endo speaks to a control unit 145—there is **no teaching** of dynamically loadable code nor does the control unit hint of such code. Endo is also cited at col. 33 line 40 – col. 40 line 7 as teaching the recited "pushing the dynamically loadable ... according to the availability schedule," Applicant again disagrees since the cited portion (a claim) only claims broadcasting "a broadcast channel, scheduled broadcast starting time, scheduled ending time and a signal receive ID." There is **no hint or suggestion** in Endo of the recited dynamically loadable code nor providing such code as suggested by the Action.

This lacking of Endo is acknowledged by the Office but it is suggested this lacking is cured through application with Guarneri. Applicant must respectfully disagree. In order for these references to be properly combined, it is required that there be some motivation to combine the reference, e.g., there must be some motivation in the references that would lead to attempt to provide dynamically loadable code over a unidirectional communication link.

Applicant submits there is no such motivation to combine in the references.

If we assume for the sake of argument that the Office is correct that Guarneri teaches broadcasting software updates, as should be clear from the cited portion of the specification above, **the Guarneri software updates have no bearing on dynamically**

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loadable code. Knowing how to update software does not teach or suggest anything relating to dynamically loadable code. Consequently, even if the references were combined as suggested, the combination is unworkable, e.g., the recited operations are not effectuated.

For at least these reasons, Applicant suggests the rejection of claims 1 and 7 are improper and their withdrawal are requested. It is further submitted that claims 1 and 7 are presently in condition for allowance and their passage to issuance is solicited. Regarding dependent claims 2-6, 8-12, it is submitted these claims are allowable for at least the reason as depending from allowable base claims.

Dependent claims **2 and 8** stand rejected as being obvious over Endo, Guarneri, and Kamimura (US Patent No. 6,526,455. Dependent claims **6, 12, 26, 40, 51** stand rejected as being obvious over Endo, Guarneri, and Nakajima. Applicant thanks the Examiner for the detailed review of the present matter.

However, Applicant must respectfully traverse these rejections based at least in part on the inapplicability of Endo and Guarneri as discussed above. Since Endo and Guarneri can not be combined as suggested, the combination suggested additional combination with Kamimura or Nakajima does not cure the defects of Endo and Guarneri. It is further submitted these claims are allowable for at least the reason as depending from allowable base claims.

Applicant notes that with respect to the rejection of claim 26, 40, 51, the respective base claims 24, 39, 50 were rejected on different grounds. It is unclear how to treat these rejections when it has not been shown how a suggested combination of

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Endo, Guarneri and Nakajima would render the base claims obvious. However, due to the independent claims 24, 39, 50 being respectfully submitted as being allowable as discussed below, the odd rejection of claims 24, 39, 50 is deemed moot for the moment.

Claims 13-18, 20, 24, 25, 30, 31-33, 35, 39, 44-46, 47 and 50 stand rejected as being obvious over Endo, Guarneri, further in view of Becker (US Patent No. 5,937,411).

Applicant traverses the rejections. As discussed above, neither Endo nor Guarneri teaches or even remotely suggests the recited pushing dynamically loadable code—there simply is no basis for asserting some combination of these references teaches pushing dynamically loadable code. Further, regarding the recited manifest, the Examiner's attention is respectfully directed to the Specification at page 7 lines 8-22, at which is stated:

The manifest comprises an identifier **302** that identifies the class definition so that the class can be properly loaded during execution of an application program. In Java, the class definition identifier comprises a package name followed by a relative class name. For example, the "String" class is part of the "java.lang" package, and is therefore properly identified as "java.lang.String". Other programming environments may utilize other identifying data, such as the name of the class, and/or a globally unique identifier (GUID) for the class, and/or a class context, and/or class dependencies.

In one embodiment, the manifest further comprises a push schedule **304**, or availability schedule, indicating when class definitions referenced within the manifest will be pushed onto a unidirectional communication link. In this embodiment, the manifest may further comprise a retrieval source **306** if class definitions may be received on one of several unidirectional communication pathways. Other related data **308** may also be stored in the manifest to facilitate routing, verification, billing, or manifest related transactions.

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There is no teaching or suggestion in the cited portions of the documents relied on by the office of a manifest comprising push schedule 304 as discussed above. While Becker does teach about a "manifest" for Java programming language JAR files, the Becker manifest has no relation to the recited "manifest" for dynamically loadable code.

As stated in Becker:

Java employs a platform independent file format that concatenates and compresses many Java classes, image, audio and other information into one file called a JAR (Java ARchive) file. ... The file format is the popular ZIP format and can be used as a general archiving tool. **The JAR archive file contains a Manifest file located at META-INF/MANIFEST.MF within the archive. This file contains information about the structure of other files within the JAR file.**

Thus, the Becker manifest simply describes file structure, and has no hint of an availability schedule for dynamically loadable code. While the Action speaks to various things that the Becker manifest "**could**" contain (Action page 11), such speculation is respectfully suggested to be application of impermissible hindsight reasoning. What is relevant is whether Becker **does** explicitly teach the manifest taught by the present specification as recited (or an obvious analog of the manifest) – **not** whether Becker **could** teach it. Applicant submits there is no such teaching in Becker.

Consequently, in addition to the distinctions over Endo and Guarneri discussed above, due to the failure of Becker to teach recited embodiments as suggested, Applicant submits the combination is unworkable as requests withdrawal of the rejections. Applicant further submits that claim 13 is presently in condition for allowance and respectfully solicits the same.

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Regarding the rejection of claims **20, 24, 31, 35, 39, 47, 50**, while these claims each cover various embodiments have varying distinguishing claim elements and features, common to each of these claims is reciting a manifest comprising an availability schedule. As discussed above with respect to the rejection of claim 13, the cited portions of the documents relied on by the Office fail to teach or suggest such a manifest comprising an availability schedule.

Consequently, it is respectfully submitted the suggested combination is not obvious, and even if combined as suggested, the combination of references fails to teach or suggest the recited embodiments. For at least these reasons, Applicant requests the withdrawal of the rejections of claims **20, 24, 31, 35, 39, 47, 50**, and of their dependent claims.

Regarding the rejection of dependent claims **14-18, 21-23, 25-30, 32-34, 36-38, 40-43, 45-46, 48-49, 51-52**, Applicant again thanks the Examiner for the detailed review of the present matter. However, Applicant must respectfully traverse these rejections based at least in part on the inapplicability of Endo and Guarneri as discussed above. Since Endo and Guarneri can not be combined as suggested, the combination suggested additional combination with Kamimura or Nakajima does not cure the defects of Endo and Guarneri.

Thus, it is submitted independent claims **20, 24, 31, 35, 39, 47, 50**, and dependent claims **14-18, 21-23, 25-30, 32-34, 36-38, 40-43, 45-46, 48-49, 51-52** stand in condition for allowance and their passage to issuance is respectfully solicited.

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Conclusion

For at least the foregoing reasons, Applicants submit that the rejections have been overcome. Therefore, claims 1-52 are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application. Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,

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